

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

**JILL DILLARD, JESSA SEEWALD,
JINGER VUOLO, and JOY DUGGAR**

PLAINTIFFS

vs.

CASE NO. 5:17-5089-TLB

**CITY OF SPRINGDALE, ARKANSAS;
WASHINGTON COUNTY, ARKANSAS;
KATHY O'KELLEY, in her individual and
official capacities;
ERNEST CASE, in his individual and official capacities;
RICK HOYT, in his individual and official capacities;
STEVE ZEGA, in his official capacity;
BAUER PUBLISHING COMPANY, L.P.;
BAUER MAGAZINE, L.P.;
BAUER MEDIA GROUP, INC.;
BAUER, INC.;
HEINRICH BAUER NORTH AMERICA, INC.;
BAUER MEDIA GROUP USA, LLC; and
DOES 1-10, inclusive**

DEFENDANTS

**MOTION TO CONSOLIDATE SUBMITTED ON BEHALF OF
SEPARATE DEFENDANTS CITY OF SPRINGDALE, ERNEST CATE, IN HIS
INDIVIDUAL AND OFFICIAL CAPACITIES, AND KATHY O'KELLEY IN HER
INDIVIDUAL AND OFFICIAL CAPACITIES**

COMES NOW, Separate Defendants, City of Springdale, Ernest Cate ("Cate"), in his individual and official capacities, and Kathy O'Kelley ("O'Kelley"), in her individual and official capacities (collectively referred to herein as the "Springdale Defendants"), and for their Motion to Consolidate pursuant to Rule 42 of the Federal Rules of Civil Procedure state as follows:

1. Currently pending before this Court are two actions: 1) Case No. 5:17-5089-TLB; and 2) Case No. No. 5:17-5125-TLB with essentially identical factual and legal issues. In both cases, the Plaintiffs assert the same causes of action for the same release of the same police reports for which the Defendants will assert the same legal defenses.

2. Rule 42 of the Federal Rules of Civil Procedure allows consolidation of actions that share common questions of law and fact.

3. The disputed and undisputed facts in both cases are the same; the evidence to be presented in both cases is the same; the witnesses will undoubtedly be the same; the Plaintiffs' legal claims are the same; and the defenses thereto are the same.

4. Furthermore, the cases are at the same stage of litigation and neither case has commenced discovery.

5. The Defendants will be prejudiced if the actions are not consolidated as they will be forced to duplicate its discovery efforts and the trial. To hold two different trials on the same legal and factual issues will create a risk of inconsistent adjudications of common factual and legal issues, a risk of inconsistent verdicts, confusion, unnecessary repetition, and excessive costs, and is contrary to the principle and purpose of consolidation.

6. Conversely, consolidation would pose no significant risk of confusion or unfairness to any of the Plaintiffs. The factors favoring consolidation outweigh any opposing considerations as there are none.

7. This Motion is for good cause and no prejudice will result to any party. Rather judicial resources will be preserved and litigation costs will be reduced as a result of the consolidation.

8. Separate Defendants are filing a Brief in Support contemporaneously with this Motion and it is adopted by reference pursuant to Fed. R. Civ. P. 10(c).

9. Contemporaneously with the filing of this motion and supporting brief, Separate Defendants are submitting a Motion to Consolidate and supporting brief in Case No. No. 5:17-5125-TLB.

WHEREFORE, the Springdale Defendants respectfully requests that the Court grant their Motion to Consolidate pursuant to Fed. R. Civ. P. 42(a) thereby consolidating Case No. 5:17-CV-05089-TLB and Case No. 5:17-CV-5125-TLB for all purposes including discovery and trial.

Respectfully Submitted,

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**COUNSEL FOR SPRINGDALE
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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on 10th day of August, 2017, a true and correct copy of the above and foregoing was filed with the Clerk via the CM/ECF system which will send notification of filing to the following:

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